

REMARKS

Claims 1-9 are pending in the application. Claims 1, 3 and 9 were rejected under 35 U.S.C. 102(b) as being anticipated by Ozaki et al. (EP 1,207,671). Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki in view of Kuroda (US Pub.2004/0048632) and Pallakoff (US Pub. 2002/0163504). Claims 4-8 remain objected to as being dependent upon a rejected base Claim 1, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claim 1 is amended as set forth herein.

The present application recites a step compensating mechanism, which permits keys of key arrays on a body housing to be conveniently manipulated when a swing housing is rotated from a body housing, and which has a pleasing external appearance in the absence of a step. No step occurs between the top surface 10a of the body housing 10 and the top surface 20a of the swing housing 20.

Ozaki teaches an opening/closing structure for a portable information terminal. The Examiner asserts that Ozaki teaches each and every element of the present invention. Ozaki does not reveal “a step compensating mechanism *for preventing* a step between the top surface of the body housing and the top surface of the swing housing when the swing housing is rotated to the prescribed angle from the body housing.” [Emphasis added], as previously recited in Claim 1.

While Ozaki describes an opening and closing structure for a portable terminal, it does not describe a problem with key manipulation or aesthetics associated with a step between the body and the swing housing when the device is open, thereby failing to provide a mechanism for preventing a step between the body housing and the swing housing sections.

In fact, Ozaki does not provide a “mechanism for preventing a step” because as shown in Figs. 1B, 2A and 6C of Ozaki, a step remains between the face of the display portion 3 and the

face of the operating portion 5. These points were argued in response to the previous Office Action.

The Examiner asserts that because Claim 1 recites a mechanism to prevent “a” step between top surface of the body housing and the top surface of the swing housing, the use of the indefinite article “a” does not convey any amount or degree of step to be prevented. The Examiner asserts that the mechanism of Ozaki prevents at least some “step” and therefore the device of Ozaki falls within the scope of the claims. It is respectfully submitted that the Examiner is incorrect.

The term “prevent” is defined as “to keep from happening”. (American Heritage College Dictionary, 3rd Ed., Houghton Mifflin Co., 1997; Dictionary.com) Synonyms for prevent are preclude, avert, obviate and forestall (Am. Heritage College Dictionary, 3rd Ed., Houghton Mifflin Co., 1997; Dictionary.com). Prevent and its synonyms describe an absolute action. For example, prevention of an accident means that the accident has not and will not occur. It does not mean that only a small amount of damage has resulted. With respect to Claim 1 of the present application, the mechanism *prevents* a step from occurring between the body and swing surfaces of the mobile terminal. The step is not merely reduced.

To the contrary, the Examiner acknowledges that the mechanism of Ozaki only partially reduces the step between the body and swing surfaces. On its face, the step is clearly not prevented.

In a telephone interview on December 7, 2005, between the Examiner, Corey M. Broussard, and Applicants’ representative, Edward J. Smith, the use of the term “prevent” was discussed. The Examiner is thanked for this discussion.


As discussed, to expedite prosecution, Claim 1 has been amended to recite, in part, “a step compensating mechanism *eliminating a* step between the top surface of the body housing and the top surface of the swing housing when the swing housing is rotated to the prescribed

angle from the body housing" [Emphasis added]. "Eliminating" is defined as "getting rid of or removing, doing away with, annihilating, extinguishing, or eradicating". (Am. Heritage College Dictionary, 3rd Ed., Houghton Mifflin Co., 1997; Dictionary.com) As acknowledged by the Examiner, the mechanism of Ozaki only partially reduced the step. Therefore, Ozaki does not eliminate the step.

As Ozaki does not teach each and every element of Claim 1, it is respectfully submitted that Ozaki does not anticipate Claim 1. Further, because Claims 2-9 are dependent upon Claim 1, and Claim 1 is believed to be allowable, dependent Claims 2-9 should also be allowable for at least the above-described reasons.

In view of the preceding remarks, it is respectfully submitted that all pending claims, namely 1-9 are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516